Robinson, Nehemiah v. T. Catlett, et al.
USDC-Southern District Case No. 08-CV-00161-H (BLM)

EXHIBIT 2

...ED CAL APPEALS JUL 03 2007
RECEIVED CAL APPEALS JUL 27 2007

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE APPEAL FORM

CDC 602 (12/87)

Location: Institution/Parole Region 1. CAL 2. ______

Log No. 1. 0701247 CN 2. ______

Category: 8, Per CDW

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

C-FILE COPY

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
NEHEMIAH ROBINSON	J-71342	———	B-2-107

A. Describe Problem: PETITIONER HEREBY MOVE TO REDRESS THE DEPRIVATION, UNDER COLOR OF STATE LAW, OF RIGHTS SECURED BY THE U.S. CONSTITUTION. I HEREBY INVOKE MY FEDERALLY SECURED AND ESTABLISHED RIGHT TO FILE THIS COMPLAINT PER. THE 1ST AMEND. OF THE U.S. CONSTITUTION, PER. CCR TITLE 15 § 3084.1. (a) AND PER THE SETTLEMENT AGREEMENT REACHED IN PLATA V. DAVIS (PLATA IS A FEDERAL CIVIL RIGHTS CLASS ACTION LAWSUIT REGARDING MEDICAL CARE IN ALL CALIFORNIA PRISONS, AND EVERY CDC PRISONER WHO HAS SERIOUS MEDICAL CONDITION IS A MEMBER OF THE CLASS COVERED BY THE LAWSUIT.) PETITIONER ASSERT THAT HE IS A "CHRONIC CARE PATIENT" THAT SUFFER FROM "SIGNIFICANT COLLAGEN VASCULAR DISEASE / →

If you need more space, attach one additional sheet.

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B. Action Requested: WHEREFORE IT IS RESPECTFULLY REQUESTED 1) TO KNOW WHEN SAID MEDICATION WAS APPROVED AND THE START DATE FOR PETITIONER TO RECEIVE SAID MEDICATION, 2) TO BE GIVEN THE PRESCRIBED MEDICATION ON TIME, 3) MEDICAL STAFF RESPONSIBLE BE COUNSELED TO PREVENT FURTHER INCIDENTS OF THIS NATURE, AND 4) COMPENSATED $5,000.00 FOR PAIN AND SUFFERING.

Inmate/Parolee Signature: [signature] Date Submitted: 6-18-07

C. INFORMAL LEVEL (Date Received: ______)

Staff Response: ______

Staff Signature: ______ Date Returned to Inmate: ______

CSP-CAL-BYPASS

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: ______ Date Submitted: ______

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: CAL 0701247 CC

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(DESCRIBE PROBLEM)

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POST-TRAUMATIC DEGENERATIVE ARTHRITIS IN MAJOR JOINTS (PLEASE SEE MEDICAL FILE) WHICH DEBILITATE AND IMPAIRS MY ABILITY TO FUNCTION NORMAL AT TIMES. PETITIONER FURTHER ASSERT THAT HE UNDERWENT "A.C.L RECONSTRUCTION WITH AUTO-GRAFT OF THE RIGHT KNEE, ASSERTING THAT PETITIONER ALSO SUFFER FROM A "LATERAL [redacted] MENISCAL TEAR AND AWAIT SURGERY ON THE RIGHT KNEE" (PLEASE SEE MEDICAL FILE).

PETITIONER ASSERT THAT HE HAVE BEEN EXPERIENCING SEVERE PAIN IN HIS RIGHT-KNEE AND IN HIS MAJOR JOINTS, PETITIONER HAS COMPLAINED CONTINUOUSLY OF SAID CONDITIONS. AND AS A RESULT, PETITIONER WAS TAKEN TO AN OUT-SIDE HOSPITAL IN THE MONTH OF MAY, 07; EXAMINED AND PRESCRIBED PAIN MEDICATION BY AN ORTHO-SPECIALIST (NAME UNKNOWN) (SEE MEDICAL FILE). THE DOCTOR (SPECIALIST) PRESCRIBED "**TRAMADOL HYDROCHLORIDE 50 MG TABLET**".

PETITIONER ASSERT THAT ON 6-17-07, AT 4:40 P.M, **D. NOREIGA (LVN)** GAVE ME MY MEDICATION, RECEIVED FOR THE "FIRST-TIME"; TO WIT, TRAMADOL HYDROCHLORIDE 50 MG TABLET. D. NOREIGA (LVN) STATED THAT SHE DONT KNOW WHY PETITIONER HAVE NOT BEEN RECEIVING HIS PAIN MEDICATION, AND DONT KNOW WHEN IT WAS APPROVED, THAT SHE WILL LET ME KNOW TOMORROW.

PETITIONER ASSERT THAT ON 6-18-07 AT OR ABOUT 7:15 A.M **D. NOREIGA (LVN)** WAS PASSING-OUT MEDICATION AND [redacted] PETITIONER REQUESTED HIS PAIN MEDICATION? D. NOREIGA (LVN) DID NOT HAVE PAIN MEDICATION FOR PETITIONER, NOR DID SHE RECALL GIVEN PETITIONER HIS PAIN MEDICATION ON 6-17-07, NOR COULD D. NOREIGA (LVN) GIVE THE DATE SAID MEDICATION WAS APPROVED. D. NOREIGA (LVN) THEN WROTE PETITIONER NAME DOWN AND SAID THAT SHE WILL CHECK INTO THE MATTER. PETITIONER ASSERT THAT HE MADE D. NOREIGA

ARGUMENT

PETITIONER ASSERT THAT THE UNITED STATES DISTRICT COURT PRESIDED OVER THE CLASS ACTION CIVIL SUIT (PLATA V. DAVIS) WHICH A SETTLEMENT WAS REACHED IN PART AUTHORIZING IMPROVEMENT IN MEDICAL CARE IN ALL CALIFORNIA PRISONS. SPECIFICALLY, CALIPATRIA STATE PRISON IS/ WAS SCHEDULED TO COMPLY WITH THE NEW MEDICAL POLICIES AND PROCEDURES IN "2007". (MEDICATION: FORMULARY PRESCRIPTIONS TO BE FILLED IMMEDIATELY . . . ADEQUATE PHARMACY STAFFING . .)

AUTHORITY

ARTICLE 8. MEDICAL AND DENTAL SERVICES

3350. (a)(b)(1)(4)(5)

) THE EIGHT AMEND. OF THE U.S. CONSTITUTION

(CRUEL AND UNUSUAL PUNISHMENT)

ESTELLE V. GAMBLE, 429 U.S. AT 104-05. (JAIL AND PRISON OFFICIALS MAY NOT INTERFERE WITH OR FAIL TO CARRY OUT TREATMENT THAT A DOCTOR OR OTHER MEDICAL OFFICIALS HAS PRESCRIBED OR ORDERED FOR YOU.)

CAL 0701247

First Level ☐ Granted ☒ P. Granted ☐ Denied ☐ Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: JUL 05 2007 Due Date: 8/15/07

Interviewed by: Ansalgado RN 1) Tramadol ordered but never noted on 5/23/07 @1400. I/P should have received medication that same day or the following day 2) & 3) Will discuss the issue with Board medical staff regarding prevention of these types of issues. 5) I/P requesting $5,000.00 for pain and suffering. Is this possible? If so, who can answer that?

* The appeal Process does not allow for monetary Compensation at any level.

Staff Signature: [signature] Title: RN Date Completed: 7/20/07

Division Head Approved: [signature] Returned

Signature: Title: Date to Inmate: JUL 24 2007

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

WHEREFORE PLAINTIFF REQUEST A SECOND-LEVEL REVIEW FOR THE FOLLOWING REASONS 1) PLAINTIFF HAVE NOT RECEIVED THE AMOUNT REQUESTED FOR PAIN AND SUFFERING, 2) PLAINTIFF IS EXPERIENCING SEVERE PAIN IN HIS (R) KNEE AND LOWER BACK AND HAVE NOT SEEN THE DOCTOR TO EXAMINED PLAINTIFF AND, 3) REFILL OR PRESCRIBE PAIN MEDICATION AND SCHEDULE FOR (R) KNEE SURGERY. THANK YOU.

Signature: Nehemiah Robinson Date Submitted: 7-25-07

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Second Level ☐ Granted ☒ P. Granted ☐ Denied ☐ Other

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: JUL 30 2007 Due Date: 8/24/07

☒ See Attached Letter

Signature: Maria Correa Date Completed: 8/30/07

Warden/Superintendent Signature: [signature] Aug 30 07 Date Returned to Inmate: ______

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature: ______ Date Submitted: ______

For the Director's Review, submit all documents to: Director of Corrections
P.O. Box 942883
Sacramento, CA 94283-0001
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☐ Denied ☐ Other ______

☐ See Attached Letter

Date: ______

CDC 602 (12/87)

State of California Department of Corrections and Rehabilitation

Memorandum

Date : August 20, 2007

To : Inmate ROBINSON, N. CDC# J71342
B2-107

Subject : **SECOND LEVEL APPEAL RESPONSE**
LOG NO: CAL-B-07-01247

ISSUE: The appellant is submitting this appeal relative to MEDICAL.

It is the appellant's position that he suffers from severe pain to his right knee and in his major joints. The appellant claims he was seen by an Ortho Specialist in May 2007, and was prescribed Tramadol for his pain; however, appellant claims he never received his medication.

The appellant is requesting to know when the medication was ordered and when he was suppose to receive it. The appellant further request that he receive the medication on time and that medical staff be counseled to prevent further incidents from occurring and that he be compensated $5000.00 for pain and suffering.

INTERVIEWED BY: J.M. SALGADO, RN, on July 20, 2007.

REGULATIONS: The rules governing this issue are:

California Code of Regulations, Title 15, Article (CCR) 3350. **Provision of Medical Care and Definitions**

DISCUSSION: In consideration of this appeal, a review of the appeal and its attachments was conducted. The CCR and all applicable laws and procedures were also considered along with the contents of the appellant's Unit Health Record (UHR) and a personal interview.

The appellant was advised in the First Level Response that the medication (Tramadol) was ordered on May 23, 2007, but was never noted. The revised CDCR formulary of May 2007, had removed Tramadol. Delay occurred due to clarification of usage from Sacramento. After discussion with the Pharmacy staff in regard to the appellant's concern, Pharmacy staff stated that the Tramadol was ordered for the appellant on May 23, 2007 and again on August 2, 2007. The appellant's concern that he did not receive his medication in a timely manner was addressed with the Facility B Medical staff. Medical staff was advised of the importance of medication being delivered to the Inmate/Patient's in a timely manner or as soon as a discrepancy is determined. The appellant was seen on August 1, 2007, by his Primary Care Provider (PCP), S. Young, and the medication was ordered again for ninety days. The appellant is currently receiving his medication. Also a referral was submitted to the Medical Authorization Review Committee for the appellant to be seen by an Orthopedist, which is currently pending approval. The appellant is advised that in the future when medication needs to be refilled, he should notify medical staff a week prior to medication running out. If medication is not received, appellant is advised to notify medical staff as soon as possible. The appeal process does not allow for monetary compensation at any level.

Second Level Appeal Response
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DECISION: The appeal is **Partially Granted** at the Second Formal Level in that the appellant is receiving the Tramadol ordered by the specialist and his PCP. The appellant is also advised that the referral to see the Orthopedist is currently being reviewed by the MAR Committee and pending approval.

The appellant is advised that his issue may be submitted for a Director's Level Review within 15 days of receipt of this response if desired.

M. CORREA, RN
Supervising Registered Nurse II
Calipatria State Prison

Reviewed by:

K. BALL, D.O., CP&S
Chief Physician/Surgeon
Calipatria State Prison

PB
DE

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: DEC 14 2007

In re: Nehemiah Robinson, J71342
Calipatria State Prison
P.O. Box 5002
Calipatria, CA 92233

IAB Case No.: 0708660 Local Log No.: CAL-07-01247

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner V. O'Shaughnessy. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that he suffers from severe pain to his right knee and in his major joints. The appellant claims he was seen by an orthopedic specialist in May 2007, and was prescribed Tramadol for his pain. The appellant claims he never received his Tramadol. The appellant is requesting to know when the Tramadol was ordered and when he was supposed to receive it. The appellant further requests that he receive the Tramadol on time and that medical staff be counseled to prevent further incidents from occurring. He also requests a compensation of $5,000 for his pain and suffering.

II SECOND LEVEL'S DECISION: The reviewer found that the appellant was advised in the First Level of Review that Tramadol was ordered on May 23, 2007, but was never noted. The revised CDCR formulary of May 2007, had removed Tramadol. Delay occurred due to clarification of usage from Sacramento. Pharmacy staff stated that the Tramadol was ordered for the appellant on May 23, 2007 and again on August 2, 2007. The appellant's concern that he did not receive his medication in a timely manner was addressed with the Facility "B" medical staff. The appellant was seen on August 1, 2007 by his primary care physician and the medication was reordered for ninety days. The appellant is currently receiving his medication. Also, a referral was submitted to the Medical Authorization Review Committee for the appellant to be seen by an orthopedist, which is currently pending approval. The appellant is advised that in the future when medication needs to be refilled, he should notify the medical staff a week prior to the expiration date. If medication is not received, appellant is advised to notify medical staff as soon as possible. The appeal process does not allow for monetary compensation at any level. The appeal was granted in part at the Second Level of Review (SLR) on August 20, 2007.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: The Director's Level of Review reviewed the appellant's appeal complaint, the SLR response and contacted the institution medical staff for further information. On November 1, 2007, E. Banaga-Bugarin, Medical Appeals Coordinator, reported that the appellant is currently receiving Tramadol and Tylenol. He was evaluated by an orthopedist on October 10, 2007; a follow-up was requested once the magnetic resonance imaging (MRI) study was completed. On October 29, 2007, the appellant had the MRI study. A follow-up with the orthopedist will be scheduled. All of the appellant's issues on appeal have been addressed by the institution. Monetary compensation is beyond the scope of the appeals process. No modification to the SLR is warranted.

The appellant has added new issues and requests to his appeal. The additional requested action is not addressed herein as it is not appropriate to expand the appeal beyond the initial problem and the initially requested action (CDC Form 602, Inmate/Parolee Appeal Form, Sections A and B).

B. BASIS FOR THE DECISION:
California Code of Regulations, Title 15, Section: 3350, 3354

NEHEMIAH ROBINSON, J71342
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C. ORDER: No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR. If dissatisfied, the appellant may forward this issue to the California Victims Compensation and Government Claims Board, (formerly known as the State Board of Control), Government Claims Unit, P.O. Box 3035, Sacramento, CA 95812-3035, for further review.

N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, CAL
Health Care Manager, CAL
Appeals Coordinator, CAL
Medical Appeals Analyst, CAL